January 27, 1997

VIA FEDERAL EXPRESS
PRIORITY OVERNIGHT

Docket Office
California Public Utilities Commission
505 Van Ness Avenue, Room 2001
San Francisco, CA 94102

Re: Docket R.94-04-031/I.94-04-032

Dear Docket Clerk:

Enclosed for filing in the above-entitled matter are the original and five copies of the **COMMENTS OF THE CALIFORNIA ENERGY COMMISSION ON "REPORT ON JANUARY 9, 1997 DIRECT ACCESS WORKING GROUP WORKSHOP ON COMMUNICATIONS AND DATA SYSTEMS," FILED JANUARY 17, 1997 JOINTLY BY THE INVESTOR-OWNED ELECTRIC UTILITIES PURSUANT TO THE CALIFORNIA PUBLIC UTILITIES COMMISSION'S JOINT ASSIGNED COMMISSIONERS' RULING DATED DECEMBER 9, 1996**. Please return the extra copy in the enclosed, stamped, self-addressed envelope. Thank you for your attention to this matter.

Very truly yours,

SIDNEY MANNHEIM JUBIEN
Attorney for the
California Energy Commission
1516 Ninth Street, MS-14
Sacramento, CA 95814
Tel. No.: (916) 654-3951
Fax No.: (916) 654-3843

Enclosures

cc: R.94-04-031/I.94-04-032 service list

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the Commission's Proposed Policies Governing Restructuring California's Electric Services Industry and Reforming Regulation.	Rulemaking 94-04-031
Order Instituting Investigation on the Commission's Proposed Policies Governing Restructuring California's Electric Services Industry and Reforming Regulation.	Investigation 94-04-032

COMMENTS OF THE CALIFORNIA ENERGY COMMISSION ON "REPORT ON JANUARY 9, 1997 DIRECT ACCESS WORKING GROUP WORKSHOP ON COMMUNICATIONS AND DATA SYSTEMS," FILED JANUARY 17, 1997 JOINTLY BY THE INVESTOR-OWNED ELECTRIC UTILITIES PURSUANT TO THE CALIFORNIA PUBLIC UTILITIES COMMISSION'S JOINT ASSIGNED COMMISSIONERS' RULING DATED DECEMBER 9, 1996

The California Energy Commission (CEC) takes this opportunity to file comments with the California Public Utilities Commission (CPUC) on the issues raised in the December 9, 1996 Joint Assigned Commissioners' Ruling (JACR) and discussed at the January 9, 1997 Direct Access Working Group Workshop on Communications and Data Systems (Workshop) and in the January 17, 1997 Report on that Workshop filed by the Investor-Owned Utilities (Report). On January 23, 1997 the CEC requested an extension of time to file these comments in accordance with Rule 48. Administrative Law Judge Wong granted the CEC's request and authorized the CEC to file these comments by January 28 rather than by the January 24 date specified in the JACR.

I. INTRODUCTION

The Executive Summary of the Report summarizes several presentations that were made at the Workshop concerning ISO/PX Systems, Scheduling Coordinators and UDC Business Systems, and urges the CPUC to make decisions as soon as possible regarding the performance of certain critical functions under the new industry structure. The first decision indicated by the Report is the phase-in decision, which was a major focus of both the JACR and the Workshop.

The CEC believes that, due to the interdependencies among the critical functions described at the Workshop and in the Report, certain other decisions must be made first in order to provide a basis for the phase-in decision and for subsequent crucial decisions the CPUC must make in the near future, to ensure the successful opening of direct access on January 1, 1998. In these Comments the CEC suggests a logical sequence for the most urgent decisions the CPUC must make at this time, based on the interdependencies to be described below.

To summarize: The CEC reiterates its recommendation that the CPUC direct a stakeholder group to develop a retail information management plan (RIM Plan) to address the information flow needs of the restructured electric industry. Although this recommendation is discussed in some detail in the CEC's December 20, 1996 Comments in response to D.96-10-074, we emphasize its importance now in light of the January 9 Workshop and the January 17 Report. <u>Specifically, the Plan must incorporate an understanding of the retail functions of scheduling coordinators (SCs), and must address the information flows needed to support commercial settlements among SCs, utility distribution companies (UDCs), energy service providers (ESPs) and end-use customers</u>. These topics, which are essential to the operation of the new market structure, are neither being addressed by the WEPEX effort nor by any other multi-party process at this time. Nor were these topics discussed at the January 15 Full Panel Hearing on unbundling revenue cycle services, at which parties focused narrowly on how to perform existing utility activities in the restructured environment and ignored the need for diverse industry participants to perform and coordinate complex new activities that were never required under the integrated utility structure (January 17, 1996 Comments of the CEC in Response to Judge Weissman's December 23, 1996 Ruling, pp. 5-6). Section II of the present Comments expands on SC issues.

Certain basic policy decisions will be required of the CPUC to guide a stakeholder effort to draft a RIM Plan. As a first step, however, the CPUC should immediately endorse the Plan in principle and direct stakeholders to begin the necessary organizational activities. As the attendance list for the January 9 Workshop will testify, the parties to the Direct Access Working Group (DAWG) process are extremely concerned with these issues and will respond to a CPUC directive to work to further the implementation of industry restructuring (Report, Attachment A).

Following a directive to DAWG parties to initiate a stakeholder RIM Plan process, the CPUC should make certain basic policy decisions regarding load profiling (see section III of these Comments), billing and revenue handling (section IV), the nature of the UDC (section V), metering (section VI), and phase in of direct access (section VII). These near-term decisions should not try to resolve a lot of specific details, however. In these Comments, the CEC recommends an approach for the CPUC to follow in making near-term decisions to provide needed guidance to industry participants and to the RIM Plan process, while retaining flexibility to make subsequent decisions on the basis of the RIM Plan once it is adopted.

II. SCHEDULING COORDINATOR ISSUES

The JACR raised most of the important information management issues (JACR, p. 6), but the Workshop and the Report have provided only partial answers, for two reasons. First, both the Workshop and the Report focused narrowly on the phase-in question. Second, while the WEPEX effort has focused on the ISO/PX side of the marketplace, no process has yet followed up on the August 30, 1996 DAWG Report and addressed information management from the retail side, i.e., from the viewpoint of UDCs, ESPs and end-use customers, and with adequate attention paid to the interactions of all of these entities with SCs.

In general, SC issues have been given scant attention in direct access proceedings to date. The Report makes a significant contribution to correcting this deficiency, as the Report clearly recognizes the pivotal importance of SCs for the successful operation of the new retail marketplace. But the Report's contribution in this area is more to identify unresolved issues than to provide solutions.

For example, the Executive Summary of the Report concludes by citing a difference of opinion among the IOUs on the matter of phase-in of direct access. Edison and PG&E advise the CPUC to "initially limit the volume of transactions, if only in the interest of prudent risk management," while SDG&E says that "the concerns raised by Edison and PG&E are commercial concerns that can be addressed by the marketplace and commercial protocols . . ." and therefore that "limiting consumers' ability to participate in the market is not justified . . . ."

The CPUC must recognize that, no matter which of the utilities' positions it finds most convincing and how it ultimately decides the phase-in question, there is an urgent need for parties to develop the commercial protocols to which SDG&E refers. Such protocols must address financial settlements for the retail marketplace, i.e., settlements among SCs, ESPs, UDCs and end-use customers. But these settlements require access to customer meter data, and thus the problem leads back to the need to develop a comprehensive RIM Plan.

While we strongly recommend that commercial settlement protocols be developed by the relevant parties themselves, these protocols should not be left entirely to the marketplace to determine nor should they be addressed in isolation from the RIM Plan. The settlement protocols will involve the activities of regulated UDCs and will affect their ratepayers. They will affect distribution system operations in addition to commercial matters, and they will raise consumer-protection concerns. Thus the CPUC has a responsibility for becoming involved in the development of the commercial protocols in the context of the RIM Plan. SDG&E's proposal for settlement protocols (Report, pp. 24-26) is particularly useful because it provides an example incorporating both interval-metered and load-profiled customers. But it implicitly assumes that essential information management arrangements have been worked out, when in fact information flow needs of the retail marketplace have not yet been systematically examined. The Workshop and Report represent a good first effort, but they are only a beginning. What they have shown clearly is that the RIM Plan and the commercial settlement protocols are interdependent and should be addressed within a common process.

Finally, neither the RIM Plan nor the settlement protocols can be left to the WEPEX process and the FERC to determine. As the CEC has argued in previous filings, the CPUC needs to assert jurisdiction over the retail activities of SCs. The presentations at the January 9 Workshop have made it clear that WEPEX is not concerned with interactions between SCs and ESPs or end-use customers, and moreover, retail transactions are state-jurisdictional. Mr. Freeman informed the Workshop that WEPEX is adequately addressing SC activities from the ISO/PX side (Report, pp. 4-6) and that a group is now being formed to more fully develop the functions of SCs. However, this new group will focus on issues relevant to the March 31, 1997 FERC filing and will likely neglect most of the retail issues of concern to the CPUC. The CPUC should therefore assert its jurisdiction over the retail side of SC activities and direct that this element be included in the RIM Plan process.

SC issues are further complicated by the use of load profiles in place of hourly interval metering for small customers (see section III below), and these complications have implications for the settlement protocols and dispute resolution procedures that must be established. While the CEC supports load profiling on an interim basis to facilitate small customer participation in direct access, widespread use of load profiling will render the commercial settlement process, both among SCs and between SCs and other parties on the retail side, more complex and subject to dispute. This will increase the SCs' costs of doing business, at least for load-profiled customers, which will then be passed on to those customers.

To make this discussion more concrete, consider the two-step process of settling between the ISO and the SCs as described in the January 17 Report (pp. 24-26). In step one, SCs forward to the ISO their estimated hourly loads and, where available, their actual metered hourly loads, which are compared to scheduled loads. Deviations from scheduled loads indicate energy imbalances to be settled, and are the basis for allocating the aggregate energy imbalance costs for each zone to each SC with customers in that zone. Unfortunately, only estimates are available at step one for load-profiled customers, so the ISO must submit bills to SCs that may not accurately reflect the energy usage of SC's with load-profiled customers. In step two, after all end-use customers have had their monthly kWh meters read and data processed, the set of SCs serving each zone must reallocate energy imbalance costs among themselves on the basis of actual monthly energy.

Clearly, the ultimate settlement of imbalances will be most accurate if all customers have hourly interval meters. But given the desirability of using load profiles, at least as an interim measure to enable small customers to participate in the direct access market, the accuracy of settlements will depend on the accuracy of the load profiling approach. If the approach is crude, then both the initial allocation of imbalance costs and the second round of adjustment will be less accurate and more disputable, which translates into business risks and dispute resolution costs for SCs, smaller margins for ESPs and higher prices for end-use customers.

One further matter for the CPUC's concern is the impact of load profiling on settlements between the SCs and the UDCs and thus on distribution rates. Compared to hourly interval metering, load profiling tends to allow misallocation of losses, theft and other unaccounted for energy. To the extent that such problems are recovered in distribution rates they lead to cost shifting across customer classes. In effect, problems stemming from the load-profiled small customer classes could be spread into the larger customer classes that are required to have hourly interval meters. The more accurate the load-profiling procedure the less need for large customer advocates to be concerned about unfair cost shifting, and hence the less potential for costly disputes.

III. LOAD PROFILING

The CPUC should, as a preliminary decision, endorse the use of load profiles as a substitute for hourly interval meter data for the purpose of aggregating small customers, at least for residential customers, on an interim basis. The CPUC should also endorse a load profiling approach that is dynamic, is based on statistically sampled interval-metered customers and stratifies load-profiled customer classes into homogeneous customer groups. The CPUC should assign to the Ratesetting Working Group (RWG) the task of developing the details of this approach. Finally, because of the uncertainties in load forecasting and settlement of imbalances inherent under the widespread use of load profiling, as well as the insulation from hourly price incentives that load profiling provides customers, the CPUC should make it clear that load profiling will be used only as a temporary measure along the way to universal interval metering. A program for achieving universal interval metering by a date certain would then necessarily be an element of the RIM Plan.

At the same time, the CPUC should allow load profiling for small commercial customers only after the CEC and the ORA complete the load profile research they are currently conducting jointly using utility-provided hourly-metered customer data, provided that appropriately homogeneous load profiles can, in fact, be developed. This same research will be an essential contribution to the RWG's task of developing the details of the load profiling methodology.

The remainder of this section focuses on methodological issues, because this is an area of much misunderstanding and disagreement. The views of the various parties lie between two ends of a spectrum. At one extreme, SCE and PG&E (and perhaps SDG&E) have described load profiles as static, historical representations of hourly load shapes for broad customer classes. In particular, a single pair of load profiles (weekday and weekend) would represent the entire residential class for a given UDC's service territory, and would be revised annually at best. In this view, the only function of the load profile is as a template for allocating monthly kWh energy usage across the hours of the month to correlate usage for the all customers in the class with hourly PX prices.

At the other end of the spectrum, the CEC defines a satisfactory load profiling methodology as having three features:

1. load profiles should represent reasonably homogeneous groups or strata of residential or small commercial customers, rather than broad customer classes;

2. load profiles should be based on a statistically valid sampling methodology using hourly interval meters and daily reads for sampled customers; and

3. load profiles should be updated dynamically to represent estimated actual rather than historical usage, to be used for load bidding, load scheduling and energy imbalance determinations.

The CEC's view thus requires that a sample of customers be metered using hourly interval meters that report on a daily basis, and that statistical load profiles be calculated from this meter data on an ongoing basis. The SCE and PG&E view, in contrast, assumes that customers' usage patterns are the same and, moreover, will not change as a result of restructuring, thereby obviating any need for interval metering and data communication for the customer classes eligible for load profiling.

The CEC's recommendation that load profiles be stratified, dynamic and statistically robust is based on the fact that load profiles will be used for more than just allocating customers' monthly usage to hours of the month for the purpose of correlating usage with hourly PX prices. The other uses of load profiles include: load bidding by ESPs and UDCs (for default customers) to the PX and other SCs; and, measurement and settlement of imbalances among ESPs, UDCs and SCs. Although these are commercial questions and are not likely to affect system operations, the financial magnitudes involved may be large and hence the potential for litigation and loss may be significant. Reliance on static, historical, class average load profiles for these purposes will seriously degrade the accuracy of load bids and settlements, thereby increasing business risks and ultimately increasing costs to end-use customers.

The CEC recognizes that its preferred approach may raise the objection that it will compromise one of the main motives for using load profiling, namely, to eliminate the need for hourly interval metering for small customers. That depends on how it is implemented. It is possible to develop and implement sampling procedures that will impose minimal burdens on the relevant parties, will have minimal impact on other metering and information management policy issues, and yet will satisfy reasonable criteria for statistical validity. If done right, the CEC approach will provide benefits that clearly outweigh the costs. The CPUC should endorse this approach and assign the development problem to the RWG, in which the CEC has been and will continue to be a contributing participant.

IV. BILLING AND REVENUE HANDLING

The CPUC should allow customers and ESPs to have flexibility in the choice of billing and revenue handling arrangements. ESPs should be allowed to provide a separate bill for supplying energy or a combined bill for all components of electricity. In the latter case the ESP would be responsible for collecting and remitting all charges for their customers. In addition, as a near-term measure for 1/1/98 that may be revised as the UDCs' role evolves, ESPs should be allowed the option of having the UDC do combined billing. This option has the UDC in the role of "default provider" of billing and revenue handling services, and as we recommend in the next section, the CPUC needs to clarify its intentions regarding the nature of the UDCs including default provider responsibilities. For the near term, however, this option will facilitate competition by simplifying the entry of new ESPs into the marketplace.

The CPUC should note that allowing ESPs to do combined billing and revenue handling may raise concerns about the financial integrity of ESPs, and thus this option leads into the contentious issues of registration, bonding and oversight of ESPs. To address the legitimate concerns and allow ESPs to provide combined bills without wading into a morass of controversy over regulation of ESPs at this time, the CPUC could endorse the principle of voluntary bonding as a *quid pro quo* for allowing ESPs to exercise this option. The details of how this would work need not be decided immediately, but should be part of the effort to develop market rules (CEC October 11, 1996 Reply Comments to the August 30 DAWG Report, pp. 33 - 36).

V. THE NATURE OF THE UDC

The nature of the UDC is in need of clarification. For example, many parties appear to be confused about whether or not the UDC will be a competitor in the supply of energy, and if so, whether it will become a competitor from the start or only after the transitional "buy-from-the-PX" requirement expires. We note that even if the UDC can become a competitor only after the transition period ends, the anticipation of such competition will induce competitive customer-retention activity right from the start. The existence of confusion on this point was demonstrated clearly when one utility representative at the January 15, 1997 Full Panel Hearing insisted that the UDC will be a common carrier only and will not compete to provide energy, and another representative of the same utility at the January 22, 1997 meeting of the Ratesetting Working Group described the UDC as competing for customers.

The CPUC should decide that the UDC will not be a competitor for electric service customers either during or after the transition period. As a regulated monopoly, the UDC should be thought of as a provider of common-carrier distribution service. Activities not required for providing distribution service — including retail supply of energy, customer service, customer database management and most revenue cycle activities — may be performed by an affiliated ESP, once adequate affiliate rules are established and a RIM Plan that addresses information management issues in a comprehensive manner is reviewed and adopted. Ultimately it will be the ESP who maintains a direct relationship with the end-use customer, although the ESP may be affiliated with a UDC "wires company."

In addition to providing common-carrier distribution service, for the near term the UDC will be the default provider of retail energy service for customers who choose not to sign up with a direct access provider, or are not eligible if there is a phase-in period. The CEC recommends that this role be assigned to the UDC as a near-term measure only, and that the CPUC begin to investigate alternative approaches to ensure universal service, approaches that incorporate efficient competition rather than rely on the distribution monopoly to play a procurement role.

This approach to defining the nature of the UDC has several implications. First, during the period that the UDC provides both distribution service and default energy procurement service, the UDC must unbundle the costs of these two services.

Otherwise, new ESPs will be forced to compete against energy supply that is subsidized through distribution charges.

Second, there should be no presumption on the part of the utilities or other parties that the UDCs will maintain control of metering, data communication, database management and customer service activities. In particular, the CPUC should not authorize, either explicitly or implicitly, the utilities' current and planned efforts to upgrade or develop new "UDC Business Systems" as they are called in the Executive Summary of the Report. Given the crucial role of information in the new marketplace, industry stakeholders must have the opportunity via the RIM Plan process to participate in developing information management arrangements that meet everyone's needs in an equitable and efficient manner. That such arrangements are achievable and can be highly successful has been demonstrated in other industries; e.g., the VISA bank-card system and the airlines industry. It would be premature, therefore, to allow the utilities to leverage their current positions to create monopolies in information management that could create barriers to entry, limit customer choice, or reduce the flexibility to adopt technological innovations that may appear in the next few years.

This is not to say that the utilities' proposals are without merit. The system enhancements described by PG&E, for example, particularly the specifications for "an open-access customer usage database, accessible to all authorized entities" (Report, p. 43), will be an extremely valuable contribution to the RIM Plan process. Indeed, the parties drafting the Plan may even determine that there is a substantial role for the UDCs in information management. What the CPUC must ensure at the present time is that stakeholders will have the opportunity to reach that or some other determination, and not have new systems designed and imposed on them by a small number of well-positioned players.

VI. METERING AND INFORMATION TECHNOLOGIES

The Report provides very little information concerning two topics the JACR directed the utilities to address in that Report (JACR, p. 6):

1. explicitly identify the communications and data systems and the minimum performance criteria for each element needed for the ISO, PX, UDC, schedule coordinators and direct access providers;

2. clearly explain the necessary integration points and capability requirements of the various communication and data systems and describe the minimum performance criteria for each element.

Rather than provide the information requested by the JACR, the Report offers general discussions of the topics and vague descriptions of the utilities' intentions.

One aspect of these two JACR directives that parties have continually raised is the need for open standards for meters and data communication systems to permit interoperability, competitive supply of equipment or equipment elements, and upgrading of equipment through time. As far back as the August 30, 1996 DAWG Report, parties have requested the CPUC to order stakeholders to develop the needed standards. Unfortunately, the CPUC has not provided direction and the parties have not mounted a broad-based standards development process. There is much talk of the need for standards, but little or no action.

This vacuum has recently attracted the WEPEX parties, and WEPEX Phase II implementation groups are now discussing the development of metering standards and protocols applicable to direct access end-use customers and the UDCs and ESPs that serve them. This is both good news and bad news: the good news is that somebody is taking action, the bad news is that the group undertaking this action is not the appropriate one. A CPUC-directed standards development process would be far superior to one launched by WEPEX for two reasons. First, the CPUC controls revenue metering, which is a retail activity, and standards must clearly address the replacement of the existing meter with a meter and telemetry system that qualify for revenue purposes. Second, the WEPEX parties are a self-appointed group dominated by the utilities. It does not represent the broad spectrum of industry stakeholders interested in metering and telemetry standards.

The CEC has proposed that selection and/or development of metering and telemetry interface standards be addressed within the retail information management plan process that we proposed in our December 20, 1996 Comments pursuant to D.96-10-074. Whether or not the CPUC fully accepts that recommendation, we urge the CPUC to direct a broad-based stakeholder process to develop all needed metering and telemetry standards, and not to acquiescence to WEPEX usurpation of CPUC authority over retail customer issues.

VII. PHASE-IN OF DIRECT ACCESS

The recommendations in sections II through VI above should provide a context or scenario in which to make the phase-in decision. Apart from the question of whether or not a phase-in period is justified, the CEC wishes to call the attention of the CPUC to some considerations regarding this decision.

First, if the CPUC decides that a phase-in period is not necessary, it should recognize that the demand for direct access on January 1, 1998 will be highly sensitive to the content and effectiveness of the consumer education program conducted during 1997. The CEC recommends that the education program take a rather cautious approach. That is, the program should inform customers that they will be approached by competing ESPs offering various electric service contracts; it should provide them with tools for evaluating service offerings; it should inform them about the default option; and it should tell them where to get reliable, unbiased detailed information and help.

The education program should not try to sell direct access as more beneficial than UDC service or otherwise raise expectations of substantial savings. With this approach the CPUC may avoid a situation in which a high level of demand at the start "swamps" the system.

Second, if the CPUC decides that a phase-in period is desirable in order to allow a trial run of all systems as Edison and PG&E recommend, then the phase-in period should be relatively brief, perhaps less than a year. If the CPUC decides to order such a trial period for the sake of "prudent risk management" as SCE and PG&E recommend, concerns about fair allocation of eligibility to participate will be mitigated somewhat by the fact that all customers will be eligible in less than a year.

Third, at the January 9, 1997 Workshop the utilities all seemed to agree that transaction-processing capabilities, not MW of capacity, would be the source of any limitations. On this basis, the phase-in decision becomes linked to issues of how to implement the required transaction capacity enhancements and on what time schedule, and thus leads back to the issue of the nature of the UDC and the metering and information management issues to be addressed in the RIM Plan process. The CEC urges the CPUC to withhold judgment on phase-in of new information-related facilities pending adoption of the RIM Plan.

Fourth, direct access should be available on January 1, 1998 to all customers who can demonstrate they have the required metering and communications capabilities and contractual relationships with suppliers. For most medium-to-large customers, it will be cost effective to make arrangements under bilateral contracts with suppliers to install the necessary metering and telemetry without requiring new system investments by the UDCs. (Southern Electric International, Inc.'s E-Net system offers a working example, in which customer interval meters are polled daily by telephone.) The numbers presented by SCE and PG&E at the January 9 Workshop suggest that even if all customers above 50 kW were to elect direct access on January 1, 1998, it would represent less than 25 percent of existing transaction processing capability.

Customers willing to undertake the needed upgrades on their own should not, therefore, be subject to a phase-in limitation.

Date: January 27, 1997

Respectfully submitted,

SIDNEY MANNHEIM JUBIEN
Attorney for the
California Energy Commission
1516 Ninth Street, MS-14
Sacramento, CA 95814
Tel. No.: (916) 654-3951
Fax No.: (916) 654-3843